

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT NEW YORK

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EXCELSIOR PACKAGING GROUP, INC.,

Plaintiff,

Docket No. 07-CIV-6646 (NRB)

-against-

ANSWER

SUPER VENT PACKAGING SYSTEMS, INC.,

Defendant.
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Defendant, SUPER VENT PACKAGING SYSTEMS, INC. (hereinafter "Super Vent" and/or the "Defendant"), by its undersigned attorneys, Morelli & Gold, LLP, as and for its Answer (hereinafter the "Answer"), to the Complaint, dated July 5, 2007 (hereinafter the "Complaint"), of the Plaintiff, EXCELSIOR PACKAGING GROUP, INC. (hereinafter the "Plaintiff"), hereby alleges, upon information and belief, except as to its own actions, as follows:

AS TO THE SECTION ENTITLED "NATURE OF ACTION/PARTIES"

1. Denies each and every allegation contained in that paragraph of the Complaint marked and designated 1, and specifically denies that this Court has jurisdiction over this action or the Defendant.

2. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in that paragraph of the Complaint marked and designated 2, except denies that the Plaintiff is entitled to any of the relief it seeks.

3. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in that paragraph of the Complaint marked and designated 3.

4. Admits the allegations contained in that paragraph of the Complaint marked and designated 4.

AS TO THE SECTION ENTITLED "FACTUAL ALLEGATIONS"

5. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in that paragraph of the Complaint marked and designated 5.

6. Denies each and every allegation contained in those paragraphs of the Complaint marked and designated 6 through 11, inclusive.

AS TO THE SECTION ENTITLED "FIRST CAUSE OF ACTION"

7. In response to that paragraph of the Complaint marked and designated 12, which repeats, reiterates, and realleges each and every allegation contained in paragraphs 1 through 11 of the Complaint, repeats and realleges each and every allegation contained in this Answer as if fully set forth herein.

8. Denies each and every allegation contained in those paragraphs of the Complaint marked and designated 13 through 17, inclusive.

AS TO THE SECTION ENTITLED "SECOND CAUSE OF ACTION"

9. In response to that paragraph of the Complaint marked and designated 18, which repeats, reiterates, and realleges each and every allegation contained in paragraphs 1 through 17 of the Complaint, repeats and realleges each and every allegation contained in this Answer as if fully set forth herein.

10. Denies each and every allegation contained in those paragraphs of the Complaint marked and designated 19 through 22, inclusive.

AS TO THE SECTION ENTITLED "THIRD CAUSE OF ACTION"

11. In response to that paragraph of the Complaint marked and designated 23, which repeats, reiterates, and realleges each and every allegation contained in paragraphs 1 through 22 of the Complaint, repeats and realleges each and every allegation contained in this Answer as if fully set forth herein.

12. Denies each and every allegation contained in those paragraphs of the Complaint marked and designated 24 through 28, inclusive.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

13. The Complaint fails to state a claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

14. This Court lacks jurisdiction over the subject matter of this action.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

15. This Court lacks jurisdiction over the Defendant in this action.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

16. Venue in this Court is improper.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

17. Venue in this Court is inconvenient and this action should be transferred to the United States District Court for the Southern District of California, Central Division.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

18. Any goods actually delivered to the Defendant by the Plaintiff were defective in whole or in part.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

19. The Defendant paid for any conforming goods delivered to it by the Plaintiff in whole or in part.

AS AND FOR A EIGHTH AFFIRMATIVE DEFENSE

20. Upon information and belief, all of the Plaintiff's dealings with respect to the goods which are the subject of this action were with Excelsior Packaging West, LLC, a separate and distinct legal entity from the Plaintiff.

WHEREFORE, Defendant, SUPER VENT PACKAGING SYSTEMS, INC., demands judgment, as follows:

- (a) Dismissing the Plaintiff's Complaint in its entirety;
- (b) In the alternative, transferring this action to the United States District Court for the Southern District of California, Central Division;
- (c) A money judgment for the costs and disbursements of this action; and

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(d) A judgment for such other, further, and different relief as to this Court might seem just and proper in the circumstances.

Dated: New York, New York
October 22, 2007

MORELLI & GOLD, LLP

By: s/ RICHARD L. GOLD
Richard L. Gold (RG 9693)
(A Member of the Firm)
Attorneys for Defendant
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605 Third Avenue
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TO: LAW OFFICES OF KENNETH J. WEINSTEIN, ESQ.
Attorneys for Plaintiff
Office and Post Office Address
100 Garden City Plaza, Suite 408
Garden City, NY 11530
(516) 742-1400
(516) 741-3811 (FAX)

CERTIFICATE OF SERVICE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT NEW YORK

-----X
EXCELSIOR PACKAGING GROUP, INC.,

Plaintiff,

Docket No. 07-CIV-6646 (NRB)

-against-

CERTIFICATE OF SERVICE

SUPER VENT PACKAGING SYSTEMS, INC.,

Defendant.
-----X

The undersigned hereby certifies that he is a member of the firm of Morelli & Gold, LLP, attorneys for the Defendant in the above-captioned action, and that on October 23, 2007, I caused to be served a true copy of the Defendant's Answer to which this Certificate of Service is attached by mailing the same in a sealed envelope with postage prepaid thereon, in an official depository of the United States Postal Service within the State of New York (except as otherwise indicated), addressed to the addressees indicated below:

TO: LAW OFFICES OF KENNETH J. WEINSTEIN, ESQ.
Attorneys for Plaintiff
Office and Post Office Address
100 Garden City Plaza, Suite 408
Garden City, NY 11530
(516) 742-1400
(516) 741-3811 (FAX)

Dated: New York, New York
October 23, 2007

s/ RICHARD L. GOLD
Richard L. Gold (RG 9693)